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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/635,587
Filing Date: August 06, 2003
Appellant(s): KAMINSKY ET AL.

IBM Corporation
Scott D. Paul
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed June 29, 2009 appealing from the Office action mailed October 28, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,167,445	GAI ET AL.	12-2000
5,557,747	ROGERS ET AL.	9-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 6,167,445 to Gai et al ('Gai' hereinafter) in view of US Patent Number 5,557,747 to Rogers et al (Rogers hereinafter).

Regarding claim 1, Gai discloses **a workflow component configured for communicative linkage to a plurality of policy makers** (Gai, fig. 4, 410, i.e. policy maker), **said workflow component comprising a further configuration for routing stimuli and response data from said system under study to a selected one of said policy makers** (Gai, Abstract, see also col. 5, line 64-col. 6, line 2; Gai discloses a computer network, i.e. systems under study, having multiple, dissimilar network devices includes a system for implementing high-level, network policies. The high-level policies, i.e. stimuli and response, which are generally device-independent, are translated by one or more policy servers, i.e. policy makers, into a set of rules that can be put into effect by specific network devices.); **and, a policy generation component** (Gai, fig. 4, 414) **coupled to said workflow component and configured to generate an administrative policy for administering said system under study based upon data collected from said selected one of said policy makers for said stimuli and response data** (Gai, Abstract, see also col. 6, lines 12-17; Gai further discloses policy

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server with a policy making component, i.e. policy maker, that translates the high-level policies inherent in the selected traffic template and location-specific policies into a set of rules, which may include one or more access control lists, and may combine several related rules into a single transaction.). Rogers discloses **a systems administration component** (Rogers, col. 2, lines 6-9, i.e. systems administration component) **coupled to a system under study** (Rogers, col. 2, lines 10-14). Rogers discloses **stimuli** (Rogers col. 2, lines 17-18; *changing network states as signaled by events monitored within the network*, i.e. stimuli) **and response data** (Rogers col. 2, lines 15-17; *execution of the computer network programs in response to the aforementioned stimuli*) **from said system under study** (Rogers, col. 2, lines 10-14).

Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claim 2, Gai discloses the invention substantially as described in claim 1 above including. Rogers discloses **a data store of stimuli and responses in said system under study** (Rogers, Col. 2, lines 24-31; a set of instructions defining responses to stimuli are stored in a policy editor). Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to

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provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claims 3 and 12, Gai discloses **detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli** (Gai, Col. 9, lines 51-55; Gai discloses the present invention provides a method and apparatus for allowing network administrators, i.e. systems administrators, to apply high-level traffic management policies that attempt to impose such a uniform plan, despite the presence of dissimilar intermediate devices in their networks. Col. 12, lines 1-5; The traffic types for a given template are preferably derived from empirical studies and analysis of the computer network operations and usages of such industries and organizations.); **forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response** (Gai, Col. 9, lines 55-57; Gai discloses the traffic management policies, moreover, may be automatically propagated to and implemented by the various intermediate devices.); **querying said policy maker for a preferred response to said stimuli** (Gai, Col. 7, lines 10-19; Gai discloses in the preferred embodiment, the policy servers and intermediate devices utilize an extension to the Common Open Policy Service (COPS) protocol to exchange messages. More specifically, an intermediate device sends a Query Configuration message to, i.e. queries, the policy server that contains specific information about itself, such as the number and type of interfaces, whether the device is at a boundary of the intermediate domain and/or whether its interfaces are coupled to trusted or un-trusted devices.); **and, formulating a policy for responding to said stimuli based upon said preferred**

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response (Gai, Col. 7, lines 21-24; Gai discloses the policy server selects a particular set of transactions or rules, i.e. formulates a policy, responsive to the device-specific information and provides them to the intermediate device.). Rogers discloses **monitoring a response by a systems administrator to said stimuli** (Rogers, col. 2, lines 32-34; network monitoring means). Rogers discloses **forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response** Rogers, col. 2, lines 24-31; a set of instructions defining responses to stimuli are stored in a policy editor. Rogers discloses **querying said policy maker for a preferred response to said stimuli** (Rogers, col. 2, lines 35-38, an action engine which supplies the predefined responses to the stimuli). Rogers discloses **formulating a policy for responding to said stimuli based upon said preferred response** (Rogers, col. 2, lines 38-49, policy interpreter interaction with action engine).

Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Regarding claims 4 and 13, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of enforcing said policy in managing said system under study** (Gai, Col. 4, lines 62-64).

Regarding claims 5 and 14, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of forwarding said policy to said systems administrator** (Gai, Col. 12, lines 6-11).

Regarding claims 6 and 15, Gai discloses the invention substantially as described in claims 3 and 12 above including, **the step of storing said stimuli and response in a data store for subsequent analysis** (Gai, Fig. 4; Col. 14, line 57-62).

Regarding claims 7 and 16, Gai discloses the invention substantially as described in claims 3 and 12 above including, **monitoring the performance of said system under study in respect to said policy** (Gai, Col. 12, lines 6-11); **and, reporting said monitored performance to at least one of said systems administrator and said policy maker** (Gai, Col. 12, lines 6-11).

Regarding claims 8 and 17, Gai discloses the invention substantially as described in claims 3 and 12 above including, **identifying a policy maker among a plurality of policy makers, said identified policy maker having an association with at least one of said system under study, said stimuli and said response** (Gai col. 5, line 64-col. 6, line 2); **and, routing said stimuli and response to said identified policy maker** (Gai, col. 6, lines 12-17).

Regarding claims 9 and 18, Gai discloses the invention substantially as described in claims 3 and 12 above including, **identifying a policy maker among a plurality of policy makers** (Gai, col. 5, line 64-col. 6, line 2), **said identified policy maker having knowledge of another policy maker among said plurality of policy makers** (Gai, col. 5, line 64-col. 6, line 2), **said another policy maker having an**

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association with at least one of said system under study (Gai, col. 5, line 64-col. 6, line 2), **said stimuli and said response** (Gai, col. 5, line 66); **and, routing said stimuli and response to said identified policy maker, said identified policy maker further routing said stimuli and response to said another policy maker** (Gai, col. 6, lines 12-17).

Regarding claims 10 and 19, Gai discloses the invention substantially as described in claims 3 and 12 above including, **querying step further comprises the step of querying said policy maker for at least one of an identity of a related stimuli, an identity of a related response, and an identity of a related system to which said policy can apply** (Gai, Col. 7, lines 10-19).

Regarding claims 11 and 20, Gai discloses the invention substantially as described in claims 10 and 19 above including, **formulating said policy additionally based upon said at least one of said identity of said related stimuli, said identity of said related response, and said identity of said related system to which said policy can apply** (Gai, Col. 7, lines 21-24).

(10) Response to Argument

The examiner summarizes the various points raised by the Appellant and addresses replies individually.

As per Appellant's argument that:

(1) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over US Patent Number 6,167,445 to Gai et al ('Gai' hereinafter) in view of US Patent Number 5,557,747 to Rogers et al (Rogers hereinafter), Appellant argues

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that Examiner has failed to establish that Gai teaches a claimed “workflow component.” Appellant further argues that “Examiner’s provided claim construction is clearly in error...Having a linkage to other components, however, is entirely different than being a linkage, which is the Examiner’s claim construction” (Appeal Brief filed April 28, 2009, pg. 9, line 25 – pg. 10, line 1). “The workflow component is a routing device that routes particular data to particular entities” (Appeal Brief filed April 28, 2009, pg. 10, lines 4-5).

In reply to argument (1), examiner asserts Gai clearly teaches a workflow component fitting the Appellant’s definition. Gai teaches a router that includes a communication engine that is configured to exchange messages with policy servers (Gai, col. 10, lines 12-19; “...an intermediate device, such as router 318, in accordance with the preferred embodiment of the present invention. Router 318 preferably includes a communication engine 510 that is coupled to a traffic management controller 512. The communication engine 510 is configured to exchange messages with the policy server 322.”). Examiner maps the router disclosed in Gai to be functionally equivalent to the Appellant’s claimed workflow component per the definition stated in the Appellant’s appeal brief (Appeal Brief filed April 28, 2009, pg. 10, lines 4-5). Examiner also notes that this mapping of a “workflow component” to a router was presented to the Appellant in the final Office action (final Office action, mailed October 28, 2008, Response to Arguments; pg. 3, par. 2; “Gai teaches a plurality of switches, routers, intermediate devices and other communicative linkages, i.e. workflow component...”).

(2) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that that Examiner has failed to establish that Gai teaches a claimed “plurality of policy makers” (Appeal Brief filed April 28, 2009, pg. 10, lines 10-14). Appellant further argues “Examiner only cited a single element to teach the plurality of policy makers,”... “the Examiner’s response completely ignores these argued differences” (Appeal Brief filed April 28, 2009, pg. 10, lines 10-14).

In reply to argument (2), examiner asserts Gai clearly teaches “a plurality of policy makers.” Examiner has mapped the policy maker to Gai’s policy translator component (fig. 4, 410) which is part of the policy server. Gai teaches “*one or more policy servers*” (Gai, Abstract), and subsequently teaches one or more policy makers. Examiner also notes that this mapping of a “workflow component” to a router was presented to the Appellant in the final Office action (final Office action, mailed October 28, 2008; pg. 6, par. 1; “*one or more policy servers ...*”).

(3) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that the Examiner’s analysis fails to establish that Gai teaches that “stimuli and response data” is routed to “a selected one of said policy makers” (Appeal Brief filed April 28, 2009, pg. 10, lines 17-21). Appellant further argues that the “Examiner’s alleged response is entirely unresponsive to the actual arguments presented by Appellants” (Appeal Brief filed April 28, 2009, pg. 11, lines 32-33).

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In reply to argument (3), examiner asserts Gai clearly teaches “stimuli and response data” are routed to “a selected one of said policy makers.” Examiner notes that Gai clearly and explicitly teaches a router that includes a communication engine that is configured to exchange messages with policy servers (Gai, col. 10, lines 12-19; *“...an intermediate device, such as router 318, in accordance with the preferred embodiment of the present invention. Router 318 preferably includes a communication engine 510 that is coupled to a traffic management controller 512. The communication engine 510 is configured to exchange messages with the policy server 322.”*). Further, Gai explicitly teaches, *“Policy server 322 also includes a policy validation tool (PVT) 413 and a policy rule generating engine 414 that are each in communication with the policy translator 410, a device-specific filter entity 416 and a communication engine 418”* (Gai, col. 9, lines 61-67). Furthermore, as noted in the Appeal brief, Examiner has previously fully responded to this argument by the Appellant in full detail in the final Office action (final Office action, mailed October 28, 2008; pg. 3-4). As noted in these aforementioned arguments, Examiner relies upon the Appellant’s disclosure for the definition of stimuli and response. It is the opinion of the Examiner that Gai specifically teaches high-level policies and rules generated (Gai, col. 6, lines 19-25), i.e. responses, in response to different network traffic situations and conditions (Gai, col. 6, line 12-19), i.e. stimuli. However, Gai fails to explicitly state or teach the examples of stimuli and response presented in the Applicant’s disclosure on pg. 9, par. 18. Examiner relies upon Rogers to teach this aspect of the invention since to provide the method and apparatus of Gai with the specific policy examples of stimuli and response consistent

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with what is presented in the Applicant's disclosure would have been obvious to one of ordinary skill in the art, in view of the teachings of Rogers, since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, i.e., one skilled in the art would have recognized that the high-level policies and rules generated in response to different network traffic situations and conditions would need to include other specific scenarios.

(4) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that "Gai does not teach generating an administrative policy based upon collected data" (Appeal Brief filed April 28, 2009, pg. 12, lines 6-7). Appellant further argues the "Examiner has not addressed these arguments in the Third Office Action" (Appeal Brief filed April 28, 2009, pg. 12, lines 14-15).

In reply to argument (4), examiner asserts Gai-Rogers clearly teaches "generating an administrative policy based upon collected data." Firstly, Examiner notes that in Appellant's arguments of record, Appellant writes, "*the high-level policies disclosed by Gai are more comparable to the claimed 'administrative policy for administering the system under study'*" (Remarks dated March 5, 2008, pg. 4, lines 2-3). From the Appellant's own words, we see that the Appellant believes that Gai teaches

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generating an administrative policy. The issue that remains is whether Gai discloses generating this policy based upon collected data.

Upon examination of Gai, we see that Gai clearly and explicitly teaches, “*Policy server 322 also includes a policy validation tool (PVT) 413 and a policy rule generating engine 414 that are each in communication with the policy translator 410, a device-specific filter entity 416 and a communication engine 418*” (Gai, col. 9, lines 61-67).

Gai’s policy rule generating engine makes rules based on input from the network administrator, the device-specific filter entity, policy translator, repository and from intermediate devices (Gai, fig. 4; col. 9, line 59 – col. 10, line 9). Further, Rogers explicitly teaches, ‘stimuli are collected and monitored by monitors which detect an event then signal the action interface to initiate the appropriate response (Rogers, col. 5, line 45 – col. 6, line 12). Examiner also notes that this argument was clearly addressed and fully responsive to the Appellant in the final Office action (final Office action, mailed October 28, 2008; pg. 4-5).

(5) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that “Rogers does not add anything new to the teachings already found within Gai, which the Examiner has already acknowledged does not identically disclose the claimed invention” (Appeal Brief filed April 28, 2009, pg. 12, lines 21-23). Appellant further argues if “Rogers does not add anything new to the teachings already found within Gai, and Gai does not identically disclose the claimed invention, then the combination of Rogers and Gai would not

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render, as obvious, all the claimed limitations" (Appeal Brief filed April 28, 2009, pg. 13, lines 29-31).

In reply to argument (5), firstly Examiner notes that in the first Office Action mailed December 5, 2007, the claimed invention was rejected under 35 U.S.C. 102 (b) as being fully anticipated by Gai. In light of Appellant's official response dated March 5, 2008, Examiner presented new grounds of rejection under 35 U.S.C. 103 (a) that rendered the previous arguments moot while addressing the argued deficiencies of Gai with the obvious combination of Gai with Rogers. Secondly, Examiner notes, as has been noted in the appeal brief, it is the opinion of the Examiner that Gai specifically teaches high-level policies and rules generated (Gai, col. 6, lines 19-25), i.e. responses, in response to different network traffic situations and conditions (Gai, col. 6, line 12-19), i.e. stimuli. Thirdly, Examiner notes that in Appellant's arguments of record, Appellant writes, "*Applicants are unclear how the 'high-level policies' of Gai are from the system under study, as claimed. Instead, Gai teaches that '[t]he high-level policies...are selected by a network administrator.'*" (Remarks dated March 5, 2008, pg. 3, lines 17-22). To address these argued deficiencies of Gai, Examiner has brought in the Rogers reference to teach a system administration component that clearly and explicitly makes policy decisions based on data and input from the system. Specifically, Rogers discloses **a systems administration component** (Rogers, col. 2, lines 6-9, i.e. systems administration component) **coupled to a system under study** (Rogers, col. 2, lines 10-14). Rogers discloses **stimuli** (Rogers col. 2, lines 17-18; *changing network states as signaled by events monitored within the network*, i.e. stimuli) **and response**

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data (Rogers col. 2, lines 15-17; *execution of the computer network programs in response to the aforementioned stimuli*) **from said system under study** (Rogers, col. 2, lines 10-14). Examiner relies upon Rogers to teach these aspects of the invention since to provide the method and apparatus of Gai with the specific policy examples of stimuli and response consistent with what is presented in the Applicant's disclosure would have been obvious to one of ordinary skill in the art, in view of the teachings of Rogers, since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, i.e., one skilled in the art would have recognized that the high-level policies and rules generated in response to different network traffic situations and conditions would need to include other specific scenarios. Examiner also notes that this argument was clearly addressed and fully responsive to the Appellant in the final Office action (final Office action, mailed October 28, 2008; pg. 3-5).

(6) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that "the Examiner's obviousness analysis is deficient" (Appeal Brief filed April 28, 2009, pg. 14, lines 12-13). Appellant further argues "the Examiner has failed to make any factual findings that there was a reasonable expectation of success in such a combination" (Appeal Brief filed April 28, 2009, pg. 14, lines 20-21). Furthermore, Appellant argues "the Examiner's alleged

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problem to be solved has already been accomplished by Gai. Since the problem has already been solved, one having ordinary skill in the art would not have been realistically impelled to make the Examiner's proposed modification" (Appeal Brief filed April 28, 2009, pg. 14, line 23-pg. 15, line 2). Finally, Appellant argues that "Examiner has not addressed these arguments in the Third Office Action (Appeal Brief filed April 28, 2009, pg. 153, lines 5-6).

In reply to argument (6), examiner asserts this argument has been previously addressed in reply to argument (5) as Examiner has presented the logic, rationale, evidence and support for the combination of Gai and Rogers.

(7) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that Gai-Rogers does not teach the claimed "detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli" (Appeal Brief filed April 28, 2009, pg. 15, lines 9-8). Appellant further argues cited passages of Gai-Rogers are silent regarding detecting a stimuli and monitoring a response to a systems administrator to the stimuli (Appeal Brief filed April 28, 2009, pg. 15, lines 11-18). Furthermore, Appellant argues that Examiner has failed to respond to these arguments in the first response dated March 5, 2008 (Appeal Brief filed April 28, 2009, pg. 16, lines 20-pg. 17, line 7). Appellant also argues that Examiner fails to properly characterize the scope and content of the applied prior art regarding claim 3 (Appeal Brief filed April 28, 2009, pg. 16, line 9 – pg. 17, line 17).

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In reply to argument (7), examiner asserts this argument has been previously addressed in reply to argument (5) as Examiner has presented the logic, rationale, evidence and support for the combination of Gai and Rogers. Further, Examiner has presented logic, rationale, evidence and support for the teachings of “stimuli” and “response” in Gai and Rogers in reply to arguments 3 and 5 above.

(8) Regarding the rejection of claims 1-20 rejected under 35 U.S.C. 103 as being unpatentable over Gai in view of Rogers, Appellant argues that the Examiner has “completely ignored all of the above-reproduced arguments in the Third Office Action” (Appeal Brief filed April 28, 2009, pg. 17, line 20-pg. 18, line 1).

In reply to argument (8), examiner asserts this argument has been previously addressed in reply to argument (5). Furthermore, Examiner has presented logic, rationale, evidence and support for all arguments and noted their previous, fully responsive responses of record in reply to arguments 1-7 above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Tariq S Najee-ullah/

Acting Examiner of Art Unit 2453

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